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**CONTRACTOR SUPPORT ON THE BATTLEFIELD – INCREASED
RELIANCE REQUIRES COMMANDER’S ATTENTION**

By

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A paper submitted to the faculty of the Naval War College in partial satisfaction of the requirements of the Department of Joint Military Operations.

The contents of this paper reflect my own personal views and are not necessarily endorsed by the Naval War College or the Department of the Navy.

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ABSTRACT

The number and criticality of contractors on the battlefield have grown across the spectrum of conflict. Current Department of Defense initiatives to adopt a leaner business strategy, increase efficiency, and reduce expenditures have exposed the battlefield commander to additional operational risk centered on the command and control associated with “outsourcing” efforts. The challenge to the commander is to specifically design a planning and execution methodology that integrates contractor and military personnel efforts which support success on the battlefield.

A growing reliance on contractor support provides significant challenges for commanders to overcome. The challenges presented by the loss of core competencies, limited flexibility brought on by contractor security concerns, the legal limitations on the role that contractors can play on the battlefield, and the failure to integrate contractors fully into the command and control system are all critical to battlefield success.

Striving to integrate contractors on their battlefield, commanders must integrate them as part of the total force. To do this, commanders must assimilate contractors into their command and control systems, define the contractor’s mission via the unit’s desired end-state, evaluate risk by determining the contractor’s ability to perform under combat conditions, replicate the habitual relationships organic support units share with operational units, and limit the risk associated with contractor failure.

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INTRODUCTION

The practice of outsourcing and the privatization of military support functions has been a priority for the Department of Defense (DoD). Military doctrine such as Joint Vision 2020 provides a conceptual framework for privatization initiatives and sets the baseline for integration efforts.¹ A rapidly changing global threat, coupled with a downsized military, has left the U.S. Armed Forces reliant upon contractor support.

Contractors now provide what was previously a core competency for the military. From base operations to support of technically advanced systems, contractors have become essential elements at each level of command. With roots to the Revolutionary War, it has been during the post-Cold War downsizing that the military's reliance on contracted support has exploded. Better business practices, an aim to reduce costs through privatization, new technologies, and complex command and control systems all work in conjunction to make contractor support a critical issue for today's commanders. The expansion of commitments during the Global War on Terrorism and the technological sophistication of new systems have focused the commander's attention to contractors on the battlefield (CoB).

The disappearance of the linear battlefield and the explosion of civilian contractors integrated within our military units means that contractor support must be analyzed in light of the overall threat situation and our reliance on contractors within each level of command. The challenges presented by the loss of core competencies, limited flexibility brought on by contractor security concerns, the legal limitations on the role that contractors can play on the battlefield, and the failure to integrate contractors fully into the command and control system are all critical to battlefield success. It is no longer safe to assume that efforts taken by contractor personnel are done in the "rear".

The privatization of support capabilities has come to be equated with modernization and efficiency. Outsourcing augments our Armed Forces, however, during planning we often focus on the similarities between military and commercial providers vice the dissimilarities. Striving to integrate contractors on their battlefield, commanders must integrate them as part of the total force. To do this, commanders must assimilate contractors into their command and control systems, define the contractor's mission via the unit's desired end-state, evaluate risk by determining the contractor's ability to perform under combat conditions, replicate the habitual relationships organic support units share with operational units, and limit the risk associated with contractor failure.

HISTORICAL PERSPECTIVE

Contractor support to the U.S. Armed Forces can be documented as early as the Revolutionary War. As commanders realized that they needed to supply their forces with more than could be locally procured, they continuously turned to contractors to provide the delta.

During the 18th and 19th centuries, the U.S. Armed Forces relied on contractors to supplement organic capabilities during times of peak demand.² The larger force structure requirements of the early 20th century conflicts were met through enlistments and the draft, with contracting providing a necessary secondary source of manpower. World War II saw a fundamental shift in the functions provided by contractors. Contractors were still utilized as an augmentation force for basic support functions; however, the advancement in combat system complexity and technology also saw a dramatic increase in contractors as technical support representatives.³ This trend toward contracted technical support fully arrived during the Vietnam War. Technological advancements in weapons and command and control

systems led to a large increase in the numbers of support contractor personnel on the battlefield.⁴

Since new systems are procured and fielded with long-term support agreements, contractors are now increasingly required across all levels of command on the battlefield.⁵ This proliferation of contractor support subjects civilians to austere and hostile conditions, including exposure to high-intensity conflict. As conditions approach those under which military members are expected to serve, the risk associated with contracted support becomes a critical planning and execution concern for commanders.

The military's growing reliance on contracted support ensures that on the battlefields of tomorrow, American forces will be accompanied by contractors. How commanders plan for and integrate these contractors continue to be a critical aspect of operational level command and control.

ANALYSIS

“The current environment of reduced government spending and consequent grave reductions in the military force structure, coupled with continued high mission requirements and the unlikely prospect of full mobilization, means that to reach minimum required levels of support the Army logistical personnel will have to be augmented by civilian contractors.”⁶

The evolution of contracting military support that began in the American Revolution has reached a new zenith during the current conflict in Iraq. CoB have provided vital support to our forces, and as an integrated part of our force structure, they increase warfighting potential. In the last 15 years, America's military has seen a sharp decline in overall force structure and an increase in operational tempo. Studied together, these traits show a direct correlation to our growing reliance on contractor support. The solution to our downsized military has been a transformation that relies on the use of commercial contracts and

outsourcing. From 1994 to 2002, DoD awarded over 3,000 service contracts to a dozen companies.⁷ Our reliance on contracted support must be factored into current military plans in order to address the changes in the military's force structure brought about through this transformation.

Since the end of the Cold War, the U. S. Armed Forces have learned to depend more heavily on contractors. The practice of outsourcing military support functions has become a top priority in DoD. Title 10 U.S.C., section 129a authorizes the Secretary of Defense to use civilian contracting if it is financially beneficial and consistent with military requirements.⁸

In the 1980s, DoD began to collate information on CoB and their effect on mission accomplishment. The DoD Inspector General (DODIG), in a November 1988 report, highlighted four findings related to contractor performance during conflict:

- DoD had no capability to ensure continued support for essential services during mobilization.
- There was no centralized oversight of contracts.
- There was no legal means to compel contractor performance.
- There was no legal means to enforce contract terms.⁹

As a result of these findings, DoD issued guidance on crisis contracting, DoD Instruction 3020.27, Continuation of Essential DoD Contractor Services During Crisis. This guidance, however, had little affect as noted by a DODIG report issued in 1991 that highlighted continued lack of oversight and planning by the military.¹⁰

In June 2003, the General Accounting Office (GAO) issued a report that found “12 years later, we found little evidence that the DOD components are implementing the DOD Instruction {3020.27}.”¹¹ Outlined in the GAO report were findings that contractor support

was not coordinated between levels of commands, thus no one knew in total the contractor support being provided in an area of operations. The GAO report additionally noted the following discrepancies: DoD had not included contractor support in its plans, had not conducted a review to identify contracts for essential services, had limited backup plans, and that visibility of contractor support did not exist at most combatant commands.¹² In a more recent report, GAO found that support plans for military forces in Iraq were not developed until 2003 and concluded that many recurring contractor problems were a result of contractor support not being included in the planning effort.¹³

Core Competency and Privatization

Downsizing was the root cause of the U.S. military's transformation process which resulted in the outsourcing of critical capabilities. The transformation process focused on revamping combat support and combat service support with better business practices by classifying capabilities as core or non-core competencies. The desired end-state was for the Armed Forces to maintain their core competencies and diversify themselves of the non-core functions. Through this diversification, the military hoped to realize savings without hindering capabilities, thus resulting in redefined core competencies and further opening the door for wider contractor support.

Joint Vision 2020 built upon this transformation process by concluding that a reduction in the military's organic support capabilities was possible by gaining efficiencies by shifting emphasis to focused logistics.¹⁴ Commanders looked to leverage their remaining capabilities by improving command and control and making the sum of the support system greater than its parts. The Armed Forces transformation efforts have closely mirror that of corporate

America. With “focused logistics” and “just in time delivery”, corporations have increased their operating margins by diversifying from non-core business practices.

In an effort to emulate successful business practices, the military has undertaken initiatives that eliminate non-core capabilities on the periphery. Secretary of the Army Thomas White reinforced these efforts when he stated that “the Army must focus its energies and talents on our core competencies - functions we perform better than anyone else - and seek to obtain other needed products or services from the private sector where it makes sense.”¹⁵ The Marine Corps has also focused on core capabilities by calling for transformation planning that maintains “a core expeditionary capability.”¹⁶

The Armed Forces thought transformation would retain core competencies as organic structure, which would retain all the skills and tools required for survival on the battlefield. However, the actual result of transformation was a much larger juxtaposition of contractor and military capabilities better known today as privatization. A critical and unintended consequence of this loss of organic expertise is that in many cases the Armed Forces no longer have a military expert on staff to provide oversight of the contractors.

Continuing efforts suggest that DoD’s privatization of support capabilities is not complete. Recently the Defense Business Board (DBB) stated, “rather than focusing on improvements to the current system, the DBB strongly recommended that the department outsource...to the maximum extent possible.”¹⁷ Operational units now routinely find that they are dependent upon contracted support for their most basic needs as CoB have become the way to fill the void left by downsizing of our forces.¹⁸ Estimates place contractor provided support for forces currently deployed to Iraq at 20%-30% of essential military

support.¹⁹ This level of dependency requires embedded contractor support and presents unique unavoidable operational risk for the commander.

Outside the direct control of the commander, but no less important, is the concept that the military has always been a training ground for contractors. The Armed Forces have traditionally provided a ready labor pool of former military personnel that contractors could hire. This relationship was mutually beneficial - contractors hired personnel that understood the military's culture and the military continued to leverage the training and skills invested in our service members after they took off the uniform. With the loss of skill sets in the Armed Forces, this relationship is putting stress on contractors to hire qualified individuals.

Security

With such a high percentage of the force in Iraq being contractors, a major challenge for the commander is to integrate force security measures for the total force. Commanders have a moral obligation to protect civilians and must integrate contractor requirements for force protection into all aspects of planning and execution.

Joint Publication (JP) 4-0 highlights that contractors are responsible for their own force protection unless their contract specifies otherwise, and further states that contractors should not be armed.²⁰ This burden of "self" security has been included in contractual cost, but is not what is occurring on the battlefield. The Army, the largest force in the theater, places the responsibility for force protection of deployed contractors on the commander.²¹ This contradiction demonstrates the complexity of battlefield security. Commanders must also balance security with legal and other issues that will be discussed later. This balance must provide an environment that contractors will perform within, must protect life and property, and must ensure continued support to the force. If an area of operations becomes dangerous

will the contractor suspend services? A contractual failure disrupts operations. Currently, Kellogg, Brown and Root (KBR) has hundreds of trucks moving logistics support between Kuwait and Iraq. Even with military security support, KBR has suspended convoy traffic during high threat and combat periods.²² This example highlights perhaps the greatest risk to the commander, a lack of alternatives. If a contractor will not perform during increased hostilities, what risk does that carry for ongoing operations? The risk is greatest when the mission performed is critical and there is no organic capability to use as an alternative resource.

CoB continuously balance between their role as non-combatants and their need for self-defense. The Army, in Field Manual (FM) 100-21, defines three conditions that must be met for contractors to carry weapons.²³ Arming of contractors appears to be at odds with the military's responsibility for security and could threaten the legal status of the contractors on the battlefield. These conflicts in doctrine can at best be confusing and wasteful, and at worst cause unnecessary casualties or mission failure. Commander's pre-deployment security training and force planning and execution need to incorporate the unit's expected contractor personnel.

Requirements for contractor pre-deployment training in areas such as NBC defense and weapons familiarization depend upon a deployment cycle that identifies required contractor support and establishes a relationship between provider and the unit prior to deployment. Individual force protection equipment for contractor operations needs to be identified by the military command, and when not available from commercial sources, should be provided by the military.

Security concerns for the commander also include security clearances and reporting procedures for the contractors and any host nation personnel they might employ. Local nationals, even if driven by greed vice malice, pose a threat. Compromise of classified data must be a key aspect of planning and executing contractor support. Recently in Bagram, Afghanistan, a commander had to resort to buying stolen military computer flash drives, some with classified material on them, at the local bazaar. These flash drives were taken from the local U.S. base by contracted local workers.²⁴

Lastly, traditionally the support forces have provided commanders with a rear area security force or served as a ready reserve the commander could call upon in crisis. Throughout history commanders have used their support personnel as a replacement pool for the frontline units. Contractors cannot be substituted in these critical missions, thus placing a greater burden on frontline combat troops to provide rear area security personnel. This expanded mission places the total force at greater risk due to the lack of a reserves and replacements. Furthermore, the legal status of contractors means that they could not engage in security activities that are a military function even if they had the training and equipment to do so.

Legal Issues

International law is slowly evolving to address contractors on the battlefield. Contractor personnel providing contingency support to the military often find themselves in harms way, where they are subject to enemy attack and capture. International law does not recognize contractors as combatants and, therefore, offers little protection under international agreements. During hostilities, military employees fall under Common Article 3 of the Geneva Convention as civilians authorized to accompany the force.²⁵ Under high threat

combat conditions, contractors in Iraq and Afghanistan have begun to wear military-type uniforms and are armed. These self-preservation efforts, however, have a two fold drawback in that they potentially could make contractors more vulnerable by having them easily mistaken for military personnel and may change the legal status of the contractors if they are captured. Lawful noncombatants accompanying the Armed Forces must follow specific rules, uniforms must be distinguishable from military uniforms and they can only carry or use certain firearms.²⁶

In most cases, contractors deployed with the military are subject to U.S. federal laws and host nation laws, including laws of warfare and status-of-forces agreements (SOFAs). These laws, agreements, and regulations craft the context of what contractors can do and what their status is in a host country. Existing SOFAs often limit access to contractors and increase cost.²⁷ It is important to note that in most cases our current SOFAs do not cover contractors, “only 5 of 109 SOFAs in effect have any provisions for contractors.”²⁸

Congress has also noted the impact contractors could have on the local population and have taken steps to make sure contractors comply with local business and personnel practices. “DFARS 252.222-7002 requires contractors to comply with local labor laws and regulations on issues such as working hours, collective bargaining agreements, workers’ compensation, working conditions, and fringe benefits.”²⁹ In Iraq, the military has set out standards for contractors to follow when hiring local employees. Contractors are now required to provide their local hires with copies of their contracts and provide a minimum size living space for each worker.³⁰

As the number of and importance of contractors on the battlefield expands, Congress struggles to make statutory changes to keep abreast of the changes. The Defense Base Act,

for example, makes contractors eligible for workers compensation; the War Hazards Compensation Act covers contractors who suffer harm as a result of “war-risk”.³¹ This effort to regulate and protect contractors is important, however, it does also highlight that there are significant gaps in the legal status of CoB.

Legal status also affects internal procedures for commanders. Command and control of contractors cannot be carried out within the context of the Armed Forces’ command and control system. Commanders cannot discipline contracted personnel individually but instead must make provisions internal to contracts that require companies to enforce policies and agreements contained within the contract. The result is often that contractor personnel who violate the commander’s policies are normally reassigned or released by their employer without penalty. The Abu Ghraib abuses are a good example of legal/command and control dilemmas contractors pose to a combatant commander. The consequence is contractors on the battlefield are governed by contract law, which then begs the question how applicable is contract law on the battlefield?

Command and Control

Command and control is critical to our success on the battlefield, yet America’s military has not fully integrated contractors into its command and control system. Several doctrinal publications support efforts to integrate contractors, but none provide a template for the staff officer to rely upon. JP 4-0 attempts to provide an overview for the commander and his staff. DoD Instruction 3020.41, Contractor Personnel Authorized to Accompany the U.S. Armed Forces, spells out contractor policy and requirements with more detail. However, DoD Instruction 3020.41’s mere 33 pages are insufficient to provide even a rudimentary understanding of a complex issue that required the use of over 60 references. From these

“source documents” each individual service has attempted to create a contractor command and control methodology of its own.

The Army is leading this integration effort and has been aggressive in its attempt to gain control of CoB. The Army’s efforts have been more extensive than the other services, which is not surprising in light of the Army’s reliance on contractors. FM 100-10-2, Contracting Support on the Battlefield, targets the military officer (specifically non-contracting officer) involved in the planning or procurement of supplies and services and attempts to define battlefield contracting or contingency contracting in terms of structure, organization, and process.³² FM 3-100-21, Contractors on the Battlefield, goes further by attempting to define the role of contractors, outline relationships of contractors to commanders, and highlight the mission of augmentation operations and weapons technical support.³³

FM 3-100-21 looks at the heart and soul of command and control by introducing the concept of habitual relationship between civilian provider and supported unit. Habitual relationships are valued because they help establish a familiarity that increases communications and understanding of requirements prior to execution. The establishment of habitual relationships is in reality long-term planning that attempts to reduce friction on the battlefield through a process of familiarization. These long-term relationships between contract provider, contractor employees, and the commanders they support define a framework in which unknowns are reduced, leading to greater efficiency during execution.

Perhaps the most elementary aspect of command and control is accountability. Control of CoB begins with simple accountability. How many and where contractors are on the battlefield is essential information for a commander. Colonel James Chambers, Support Commander for 3rd Corps, noted in National Defense that “there was no single source

collecting, either in the theater or outside the theater [information about] how many contractors we have” and estimated that the contractor to military ratio was as high as 1:10.³⁴

RECOMMENDATIONS

Commanders must recognize the risks of relying on contractors and take appropriate actions to avoid unnecessary risk while reducing the remaining risk to acceptable levels. Commanders must focus on contract management, command and control, and planning for contracted support within their commands because decisions on how to use contractors is an important part the unit’s support plan. This focus will evaluate contracted support against and within the command as a whole in an effort to ensure continuous battlefield support and limit vulnerability by avoiding risk. Contractor support’s inherent risk must be weighed before the commander decides to adopt contracted support within the force structure. Commanders should approve contracted support when force requirements are beyond their capability, the contracted support offers some advantage, the urgency of the need does not allow the military to learn or grow the capability, and when the skill set is so highly specialized as to make it unfeasible to create an organic military capability. Commanders should also take care to resist contracting as an expedient political method to avoid requesting mobilization of the reserves.

The critical nature of the support provided by contractors makes them an integral part of the commander’s support system. As a critical component of the command, contractor systems need to be fully integrated in both planning and execution. By their presence on the battlefield, contractors impose burdens on the supported commander. Force protection and life support functions, at a minimum, need to be fully integrated into the commander’s plans. Commanders and their staffs need to refocus their efforts to include contractor support in

their planning efforts by focusing on the challenges and risk presented by CoB. It is important to remember that the military and the contractor have different goals and values that must be aligned to ensure battlefield success.

When contracted support is needed, commanders must limit operational risk through redundancy and contingency planning. There are four keys to minimize risk. First, commanders must define the contractor's mission in terms of how it integrates into his overall desired end-state. Battlefield chaos and the "fog of war" create an opportunity for contractors to pursue their goals vice the commander's. A clearly defined mission and effective staff oversight reduces the risk that contractors will profit at the expense of mission success. Second, planners must fully evaluate the contractor's ability to perform the mission under expected conditions in theater. Commanders and staff should conduct this evaluation with an eye toward both what level of performance they can expect and how long it will take the contractor to get to that level. Third, contracted support should be limited to the operational level where units have a greater freedom of action based on factors of both time and space. Lastly, commanders must develop a clear exit strategy for the contractors. To successfully integrate contracted support into an organization's operational actions, commanders must change how they do business.

Commanders must assign a single point of contact for contractors to ensure visibility and control. This representative cannot be "dual hatted" on the staff, but must be a principal advisor to the commander with the expertise needed to conduct negotiations and monitor contractor performance. Commanders are bound to comply with specific rules concerning contracting but these rules do not guarantee success. To allow the commander to exercise direct and indirect command and control over his contracted support, his staff must have

experience using contracts and CoB. Commanders must make contract oversight an integral part of their operational planning efforts. Commands must have visibility of all contractors within the battlespace. The command must maintain a tracking and reporting system for contractors from reception, staging, onward movement, and integration (RSOI) through redeployment. The flow of contractor personnel into and throughout the theater continues to be overlooked in planning. By fully integrating contractor support into the command and control planning process, and including their force flow in Time Phased Force Deployment Data (TPFDD), the commander can realistically anticipate RSOI for the contracted portion of his force. Visibility and accountability are essential to a commander if he is to maintain the ability to control his forces and surge capabilities efficiently and effectively.

Commanders must weigh the risk of contracted support before deciding to outsource. Once outsourced completely, an organic capability could take up to a generation to grow back again. The commander's risk then becomes, that by removing a capability from his control, he now has reduced his ability to use organic capabilities to backfill in case of contractor failure. The Armed Forces must maintain an organic capability that ensures all critical systems can be supported on the battlefield.

Commands must train as they fight. Unit training and planning must include contractor support expected to deploy with the unit, thus, building the basis for the establishment of a habitual relationship between the contractor and the unit. Additionally, competition for contracts and execution before contingency operations begin give the commander an opportunity to preview contractor capabilities and establish past performance as indications of a contractor's expected battlefield performance. Relationships formed during exercises and training can also closely replicate the relationships normally established between active

units and their now deactivated support units. The desired end-state is to establish repose and build a close working relationship through the establishment of confidence and mutual expectations. Since contractors and the Armed Forces have different expectations, it is important that habitual relationships include training exercises which help to build a basis for mutual expectations.

Commanders, as part of this habitual relationship, must maintain a system for training and preparing contractors for deployment. Poor readiness, either military or contractor, is a significant risk that becomes apparent during execution. Readiness shortfalls identified prior to deployment can be addressed in pre-deployment training or incorporated in RSOI operations. The establishment of habitual relations and the periodic use of those contractors during training/exercises provide the commander with a test of a contractor's readiness and help to identify those pre-deployment requirements.

Finally, commanders must identify contingency options within their plans in the event of contractor non-performance. Commanders must review current contracts to ensure the limits of the contracted support is included in the planning effort and taken into account when developing courses of action.

Implementing these recommendations will increase the commander's oversight and control of CoB. Through a thoughtful integration of contractors into force structure and planning, commanders will reduce the risk of operational failure.

CONCLUSIONS

Today's military leaders have not taken the risk presented by our increased reliance on contractors seriously. Despite the long history of the military and contractor relationship, military leaders have lacked focus when integrating contractors into the overall force

structure. Official reports, after action reports, and multiple operational examples of vulnerability have not spurred commander's action. The result has been little improvement over the last 15 years in command and control of CoB.

In the past, the military could plug organic capabilities into tasks when contractors could not or would not perform. Military personnel had the basic skills needed to succeed; this is no longer true.³⁵ Modern systems have a complexity beyond basic understanding and skill and, thus, they require specialized support. This technological advancement makes backfilling failed contractors with military personnel unrealistic.

Coupled with the trend of increased functions being transferred to the private sector, through competitive outsourcing and privatization, the military's reliance on contractors is increasing. Contractor support today has become the necessary course of action. Contractors now provide services that the military cannot provide. This reliance demands that commanders focus their staffs and seriously evaluate the risk associated with contractor support on the battlefield.

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